

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
ST. JOSEPH DIVISION

BEVERLY M. GOOCH,)
vs.)
Plaintiff,)
vs.)
HAYDEN A. O'GORMAN,)
Defendant.)
Case No. 19-06008-CV-SJ-ODS

ORDER (1) ADOPTING MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION, (2) APPROVING PROPOSED WRONGFUL DEATH
SETTLEMENT UNDER SECTION 537.095 OF THE MISSOURI REVISED
STATUTES, AND (3) DISMISSING COUNTERCLAIM PLAINTIFF'S CLAIMS WITH
PREJUDICE

Pending are Plaintiff's Application for Approval of Wrongful Death Settlement (Doc. #31) and the parties' Stipulation of Dismissal of Counterclaim with Prejudice (Doc. #34). On October 8, 2019, a hearing was held (following the Court's referral pursuant to 28 U.S.C. § 636) by the Honorable Lajuana M. Counts, United States Magistrate Judge, to consider whether final approval should be granted. Judge Counts issued a report recommending the Court grant final approval of the settlement. Doc. #37. Having conducted an independent review of the record, the Court adopts Judge Counts's Report and Recommendation in its entirety and specifically finds as follows:

1. The Court, for purposes of this Order, adopts all defined terms as set forth in the Settlement Agreement filed in this case.

2. The Decedent is survived by her mother, Beverly M. Gooch, and Decedent's only natural child, daughter Ashlynd Coffey-Page. Decedent's father passed away in 2017.

3. The Court expressly finds Beverly M. Gooch and Ashlynd Coffey-Page are the only Class I members entitled to recover damages as a result of the alleged wrongful death of Decedent pursuant to Mo. Rev. Stat. § 537.080.

4. The Court finds all Class I members have been properly notified and apprised of this settlement.

5. The parties have agreed to compromise and settle this wrongful death action for the total sum of \$200,000.00, distributed as follows:

(a) Beverly M. Gooch: \$56,295.75.

(b) Ashlynd Coffey-Page: \$56,295.75.

(c) The Thompson Law Office, PC (attorneys' fees/expenses): \$87,408.49.

6. The Court finds that all Class I claimants agree and consent to the apportionment of the settlement proceeds.

7. The Court finds the attorneys' fees and expenses claimed by Plaintiff's attorneys are fair and reasonable, are approved, and shall be paid out of the settlement proceeds.

8. The Court finds the parties' settlement is fair and reasonable under the circumstances and is in the best interests of Gooch and Coffey-Page.

9. The Court finds there is one known lien on the settlement, Truman Medical Center, Inc. The parties are fully aware of the lien and agree to the apportionment as set forth in paragraph 5, *supra*.

10. The Court approves the settlement of the above-captioned action, as set forth in the Settlement Agreement. The parties are directed to perform in accordance with the terms in the Settlement Agreement.

11. All parties have knowingly and voluntarily waived their right to a jury trial and have agreed to submit all issues in their motion to the Court for determination.

12. Upon receipt of payment, the parties shall file a Stipulation of Dismissal of Plaintiff's Claims Against Defendant with Prejudice.

13. On September 30, 2019, the parties filed a Stipulation of Dismissal of Counterclaim with Prejudice. Doc. #34. Pursuant to the parties' stipulation and Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, Counterclaim Plaintiff's claims against Counterclaim Defendant are dismissed with prejudice. Each party shall bear her or its own costs.

14. All deadlines in the Scheduling and Trial Order (Doc. #13) are deemed moot, and the pretrial conference and trial are cancelled.

15. Defendant's motion for extension of time to designate experts (Doc. #29) is denied as moot.

IT IS SO ORDERED.

DATE: October 22, 2019

/s/ Ortrie D. Smith

ORTRIE D. SMITH, SENIOR JUDGE
UNITED STATES DISTRICT COURT